

FILED
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U.S. DISTRICT COURT E.D. N.Y.
★ SEP 12 2011 ★

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
DAISY OATMAN,

Petitioner,

– against –

THE NEW YORK CITY
DEPARTMENT OF EDUCATION,

Respondent.
-----X

BROOKLYN OFFICE

**MEMORANDUM,
ORDER, AND
JUDGMENT**

10-CV-01042

JACK B. WEINSTEIN, Senior District Judge:

Defendant's motion for summary judgment is granted.

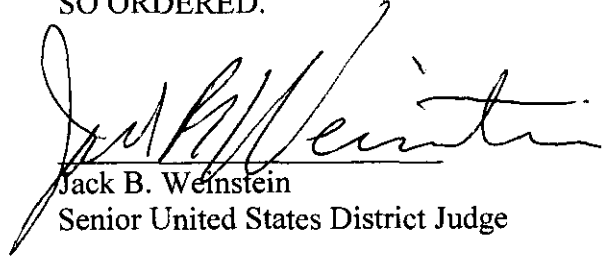
The evidence in the record and presented at the hearing on September 2, 2011 overwhelmingly shows that plaintiff was fired for an adequate and non-discriminatory reason. *See* Tr., H'rg on Defs.' Mot. for Summ. J., Sept. 1-2, 2011. Plaintiff consistently failed to perform her job at a satisfactory level. She was frequently late or absent. On one occasion, she left in the middle of the day knowing that there was no one to cover her class, abandoning her students. She received unsatisfactory ratings because of these absences for several years in a row. As a result, she was served with disciplinary charges. Pursuant to a post-charge stipulation of settlement, she agreed that she would be automatically fired if she exceeded an agreed-upon number of unexcused absences. Plaintiff was ultimately fired after exceeding the number of unexcused absences agreed upon in the settlement.

There are ample procedural defenses, but the court need not address them.

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Close the case. No costs or disbursements.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Jack B. Weinstein". The signature is written in a cursive, flowing style with a large initial "J".

Jack B. Weinstein
Senior United States District Judge

Dated: September 6, 2011
Brooklyn, New York